

A.5.0

Financial Eligibility

General

This section contains procedures for evaluating and computing income and property. It also contains CMS documentation and verification requirements. When a CMS case is established using the CMS IT system, all documentation or verifications used to determine eligibility to and level of coverage within the CMS Program, including CMS forms completed by the patient and eligibility staff, must be imaged and saved into the CMS IT system. The Image Verification Checklist (CMS-107) may be used to eliminate the scanning of some forms as specified in this section for applicants/beneficiaries during the application process.

A.5.1

Income

General

The amount of monthly net non-exempt income determines if a CFBU member is eligible to receive CMS program benefits. CFBU members whose monthly net non-exempt family income is at or below 165% of the annually adjusted Federal Poverty Level (FPL) will be eligible to CMS and will receive all CMS covered services at no cost, if otherwise eligible.

Effective with applications dated 7/01/08, eligible CFBU members with monthly net non-exempt family income above 165% FPL, up to and including 350% FPL may have a monthly Share of Cost (SOC) pending a Hardship Evaluation. Workers compute the amount of the monthly net non-exempt income in the CMS IT system, or on an income worksheet (HHSA: CMS-38H) if the CMS IT system is unavailable. When monthly net non-exempt income exceeds 165% FPL up to and including 350% FPL as shown on the MNL chart, the worker is to continue the evaluation process for a CMS Hardship, which when completed, is used to determine whether there is as SOC. When monthly net non-exempt family income exceeds 350% FPL, the CFBU member(s) is ineligible to CMS.

A. Earned and Unearned Income

The definition and treatment of earned and unearned income is the same as Medi-Cal AFDC-MN and MI cases (MPG Article 10, Section 2).

B. Exempt Income

The definition and treatment of exempt income is the same as Medi-Cal (MPG Article 10, Section 3).

C. Income In- Kind

The definition and treatment of income in kind is the same as Medi-Cal (MPG Article 10, Section 4). CMS uses the Medi-Cal income in kind levels.

D. Actual and Apportioned Income

The definition and treatment of actual income and income that fluctuates is the same as Medi-Cal (Article 10, Section 4) with the following exception. All exceptions must be recorded in the case record comment section of the CMS IT system.

When an applicant's income exceeds the CMS MNL or CMS Hardship MNL as a result of converting the weekly or bi-weekly gross income to a monthly amount, the worker will re-compute eligibility based upon actual income received in the month. If the applicant is eligible, the worker will certify CMS or CMS SOC eligibility with a certification period ending the month before the extra payday month.

EXAMPLE: The applicant applies in the month of May and is receiving bi-weekly gross earned income of \$366. Based on the paydays, the applicant will receive two paychecks per month for the period of May through August and will get a third paycheck in September. The gross income totals \$793.12 when converted to a monthly amount using the 2.167 factor. The net non-exempt income is \$703.12 after deducting the \$90 standard work expense, which puts the applicant over the CMS MNL. The worker will re-compute eligibility using the actual income of \$366 x 2 paydays in the month. This equals a net countable income of \$642 after deducting the \$90. The worker will certify CMS for the months of May through August.

**E.
Anticipating
Income**

1) Income From a New Source

When the applicant states with reasonable certainty that income from a new source is expected to begin in the current or a future month, and the amount is known or can be estimated, the income is used to determine eligibility for the month it is expected to be received.

EXAMPLE: The applicant was employed and received earnings in July, before entering the hospital in July. Because of the hospitalization and time needed to recuperate, the applicant will not receive another paycheck, and has applied for SDI. The worker counts the amount of earnings received in July, plus the amount of SDI expected to be received in July, to determine income eligibility for the July application.

2) Changes in Income

When the applicant expects a change in income in the month following the month of application, the worker determines income eligibility for the application month and the following month.

a) Decrease

When monthly net nonexempt income exceeds the CMS Hardship MNL in the month of application, normally that application is denied. However, if the applicant requires hospitalization and expects a decrease in net nonexempt income in the following month, the worker determines eligibility for the month(s) following the month of application.

Refer to MPG Article A, Section 13.4 if the change in income will result in a decrease to the Share of Cost (SOC).

EXAMPLE: The applicant is unable to work because of an illness or injury. In the month of the application, the applicant's earnings exceed the CMS Hardship MNL; however, in the following month anticipated disability benefits are below the CMS Hardship MNL. The worker certifies CMS SOC beginning with the month following the month of application.

EXAMPLE: The applicant is unable to work because of an illness or injury. In the month of the application, net countable income equals 170% of the FPL. The applicant is eligible to CMS Hardship eligibility and may have a SOC in month one; however, the following month, anticipated disability income is below 165% of the FPL. The applicant shall be certified for CMS Hardship for the month of application and standard CMS beginning in month two and continuing through the end of the normal certification period. Both approvals shall be recorded on the approval notice of action.

b) Increase

When monthly net non-exempt income is equal to or less than 350% of the FPL in the month of application, but the applicant expects the income to exceed the maximum 350% FPL in the following month, the worker certifies CMS for the month of application only.

Refer to MPG Article A, Section 13.4 if the change in income will result in an increase to the Share of Cost (SOC).

EXAMPLE: An applicant is currently receiving UIB that is less than the 350% FPL. The applicant is returning to work, and the amount of earnings is expected to exceed the 350% FPL. The worker certifies for the month of application only.

EXAMPLE: An applicant is currently receiving UIB that is less than the standard CMS MNL. The applicant is returning to work, and the amount of earnings is expected to exceed the standard CMS MNL but is within the income limit for CMS Hardship. The worker certifies standard CMS for the month of application and CMS Hardship benefits beginning in month two and continuing through the end of the normal certification period.

**F.
Net Profit
from Self-
Employment**

The net profit from self-employment is an estimation of the annual net income for the current year based on the federal tax return filed for the previous year. If the applicant did not file a tax return for the previous year or if using that tax return would give an inaccurate estimation of income, the worker uses current business records. The worker determines net profit by subtracting all business deductions allowed by the IRS from the gross business income. Allowable business expenses are listed in MPG Article 10, Section 5. After computing annual net profit from self-employment, divide the annual amount by 12 to arrive at a monthly amount. The worker will narrate the method used to determine Self-Employment income.

**G.
Deductions
When CFBU
Includes an
ABD-MN
Individual**

The income deductions, listed in MPG Article 10, Section 6, Item 3, are allowed when the CFBU includes an ABD-MN individual. The worker uses forms MC 176M and MC 176W to compute income eligibility.

**H.
Deductions
When CFBU
Does Not
Include an
ABD-MN
Spouse or
Child**

The income deductions listed in MPG Article 10, Section 6, Item 4 are allowed when the CFBU does not include an ABD spouse or child.

**I.
Unconditionally
Available
Income**

The definition and treatment of unconditionally available income is the same as Medi-Cal (MPG Article 4, Section 12) with the following differences:

1) Initial Application

At initial application, CMS only applicants are not required to apply for unconditionally available income prior to the approval of CMS benefits. The worker may approve CMS for up to three months when all other program requirements are met and must direct the applicant to apply for the unconditionally available income. However, in any subsequent application filed within one (1) year of the current application date or upon recertification, applicants and beneficiaries are required to provide verification of having applied

for the unconditionally available income prior to approval of CMS benefits. The worker **must** inform the applicant about this requirement both verbally and on the NOA that certifies CMS. **NOTE:** Applicants or beneficiaries who do not have a potential claim present on the IEVS EDD on-line real time match should not be referred to EDD to apply for UIB or DIB (State Disability) unless it is an out of state claim. **A copy of the screen is required in the case record for documentation.**

2) Dual CMS/Medi-Cal DDSD Applications

CMS applicants who also have a Medi-Cal DDSD application being processed by an HOS worker must apply for and provide verification of having applied for unconditionally available income to meet Medi-Cal eligibility requirements. CMS is NOT approved until all eligibility and verification requirements have been met for the Medi-Cal application.

3) SSA Early Retirement

Applicants age 62 through 64 must apply for SSA Retirement benefits. If they do not want to apply at age 62, but prefer to wait until age 65 to receive a larger amount, the worker shall allow them to verify the amount of SSA Retirement they would receive now in order to apply that amount in the CMS budget. The worker shall narrate the action in the case record.

4) Recovery Home Residents

Recovery home residents who are not allowed to seek employment during their drug treatment program are not required to apply for UIB. EDD requires a person to be actively seeking employment in order to get UIB benefits. In these situations, the worker is to inquire and document how long the applicant is prohibited from seeking employment. The worker must inform the applicant that upon release to seek employment, the applicant must apply for UIB before CMS benefits are recertified.

J. Income Verification

CMS income verification requirements differ slightly from Medi-Cal requirements. For CMS, income verification must be provided to accurately determine current monthly income. One pay stub may not provide enough information about the frequency and the amount of pay needed to determine the monthly amount. Workers must assist CMS applicants and beneficiaries in obtaining verifications by using the information available on systems such as MEDS, IEVS or in cases

that are with other workers. **A copy of the screen is required in the case record for documentation.**

When verifications are not available, workers will follow Medi-Cal procedure in MPG Article 4, Section 7, Item 9. For CMS, income must be verified:

1. At application and reapplication;
2. At recertification;
3. Whenever a change is reported.

EXCEPTION: Income from SSA or VA must be verified the first time it is reported and verified if there is a change. If there is no change, the income does not have to be verified at recertification.

A.5.2

Maintenance Need Level (MNL)

General

See MPG A.5. Appendix C for CMS and CMS Hardship MNL charts. When monthly net non-exempt income exceeds the amount for CMS eligibility (165% FPL), the monthly net non-exempt income amount should be compared to the maximum amounts allowed shown for CMS Hardship eligibility (maximum 350% FPL).

Workers shall use the month of certification to determine which year's MNL chart to use.

Example: Application date is June 27, 2008. Application disposition is evaluated on July 1, 2008 and CMS is granted effective June 1, 2008. The MNL chart effective July 1, 2007 is to be used.

Example Application date is June 27, 2008. Application disposition is evaluated on July 1, 2008 and CMS is granted effective July 1, 2008. The MNL chart effective July 1, 2008 is to be used.

The CMS MNL for a beneficiary residing in a skilled nursing or intermediate care facility equals the MNL for one (1).

A.5.3

Property/Resources

General	Property rules for CMS and CMS Hardship are identical. Property ownership and determination of excluded and included property is the same as Medi-Cal. The worker evaluates the property owned by members of the CFBU to determine the net market value of property included in the property reserve. Notice HHSA: CMS-007/HHSA: CMS-007(SP) provides a general overview of CMS property requirements and CMS spenddown regulations.
A. Property Reserve Limits	See MPG Article A, Section 5, Appendix C for the property limits.
B. Verification of Property	<p>Property verification requirements for CMS and Medi-Cal are the same. Bank account balance verification must show that the applicant/beneficiary is property eligible in the first month of the certification period before certifying CMS. When recertification occurs during the last month of the current certification period, verify bank account balances for the last month of the current certification period. In addition to current account statements and signed correspondence from the institution holding the fund, the following items can verify balances.</p> <ol style="list-style-type: none">1. An automated teller machine (ATM) slip is acceptable verification of bank account balance only in conjunction with the last bank statement received by the beneficiary. The worker must be able to verify that the ATM slip is for the same account as the bank statement.2. A bank passbook is acceptable verification when current month entries have been stamped, initialed and dated by bank personnel.
C. Property Spenddown	Property spenddown rules for CMS and Medi-Cal are <u>different</u> . Workers must give notice HHSA:CMS-007 to read and sign, and advise every CMS applicant of the CMS property limit for the applicable CFBU size, the method of computing the excess property amount, and the rules for reducing excess property in order to become eligible for CMS coverage.

1) Computation

Workers list the items of property and total their value on the automated HHSA: CMS-39D. The property limit for the CFBU is subtracted from the total value of non-exempt property to arrive at the amount of excess property. This is the amount that must be spent.

2) Allowable Expenses

The applicant may reduce excess property by paying actual CMS medical expenses, current month rent or mortgage, and current month utilities, excluding cable TV.

3) Worker Action

The worker sends an automated Notice of Action (CMS-39D) telling the applicant that CMS has been denied because of excess property and giving the applicant the opportunity to spend the excess. The applicant has 30 days from the date of the notice to pay allowable expenses and to submit receipt(s) to the worker. If the applicant submits receipt(s) within the 30 days, the worker verifies that the property excess has been spent correctly, and is now within the property limit, and rescinds the denial. The certification period begins the month of application as long as all other eligibility factors are met. The worker notes in the comments section of the CMS IT System "spend down medical receipts in the amount of \$_____." The worker completes a CMS-4 and attaches the receipts to the CMS-4 sent via interoffice mail to ASO Spenddown Data Entry Eligibility Supervisor. The receipts enable the ASO to identify the provider(s) that the applicant has paid. If the receipts are not received within 30 days, the denial stands.

**D.
Property
Utilization**

Rules for utilization of other real property for CMS and Medi-Cal are different. CMS does not require applicants to utilize other real property and, therefore, CMS does not exempt other real property based upon how it is used. The first \$6,000 of the combined net market value of all other real property is exempt. **The net market value in excess of \$6,000 shall be counted in the property reserve.**

**E.
Property
Transfers**

Rules for transferring property for CMS and Medi-Cal are different. CMS evaluates **all** situations where the applicant transferred property without adequate consideration. A transfer of property means a change in ownership so that a person no longer holds title to, or beneficial interest in, the property. This applies to any type of property. Each transfer must be evaluated individually.

1) Transfer Not Resulting in Ineligibility

- a) Transfers of property occurring more than two years before the date of application are not evaluated, regardless of the circumstances surrounding the transfer. This applies even if there is substantial evidence that the transfer was made solely for the purpose of qualifying for CMS.
- b) Transfer of property that was exempt at the time of the transfer. Property, which is determined to be exempt based on specific conditions, loses exempt status once the conditions are no longer met.
- c) Transfer of property whose net market value when included in the property reserve does not cause ineligibility. The value of the transferred property at the time of the transfer will no longer be counted in the property reserve.
- d) Transfer of property which received adequate consideration. Adequate consideration means that cash or property that was of equal value to that of the transferred property was received, and was legal at the time and place the transfer occurred. Adequate consideration also includes:
 - 1) Satisfying a legal debt, and
 - 2) Reimbursing someone, other than a responsible relative, for care or benefits provided. There must be a prior written agreement or understanding specifying the type of care to be given, the rate of pay, and that reimbursement would be made. Applicants must provide evidence to establish that the value of the care or benefits provided was equivalent to the value of the transferred property.
- e) Transfer of property when foreclosure or repossession of the property was imminent at the time of transfer and there is no evidence of collusion.
- f) Transfer of property when the applicant received an enforceable life care contract that does not include complete medical care. In this case, each full item of need provided under the life care contract is considered income in kind.
- g) Transfer of property made without receipt of adequate consideration, but the applicant provides convincing evidence to the worker that shows that the transfer was not made to qualify

for CMS.

- h) Transfer of property when there is a written transmutation of a married couple's nonexempt community property into equal shares of separate property through an inter-spousal agreement.
- i) Transfer of property if denial of CMS would cause undue hardship as described in MPG Article 9, Section 7, Item E4.

2) Transfers Resulting in Ineligibility

- a) Applicant receives an enforceable life care contract that includes complete medical care.
- b) Transfer of property without adequate consideration within two years from the application date. See previous section 1d regarding adequate consideration.
- c) Adequate consideration was not received for the transfer of non-exempt property. It is presumed that transfers of non-exempt property without adequate consideration are made to become eligible to CMS. The applicant may overcome this presumption by providing convincing evidence, including a written subjective statement that shows the sole purpose of the transfer was for reasons other than to become eligible to CMS. This may include, but is not limited to, evidence that the transfer was made to avoid probate and/or the applicant had no knowledge of CMS or its benefits at the time of transfer.

3) Documentation of Transfers

The worker documents the decision about the effect of the transfer on eligibility, including the reasons for the decisions in the case narrative. When a period of ineligibility occurs because of a property transfer, the application or recertification is denied. The worker indicates the period of ineligibility in the CMS IT System comments section.

4) Period of Ineligibility

a) Beginning Date

The period of ineligibility begins with the first of the month following the date that transfer occurred. There may be consecutive periods of ineligibility from consecutive transfers of

property without adequate consideration. If consecutive transfers occurred, evaluate each separate month when a transfer occurred using the computation below.

b) Ending Date

The period of ineligibility ends when any of the following situations occurs:

- 1) The property that was transferred and caused ineligibility is conveyed back to the applicant, or
- 2) The applicant receives adequate consideration for the property, or
- 3) The excess net market value has been reduced to zero(the months of ineligibility have been reduced to zero).

c) Computation

This computation is done on the back of form MC 176P.

- 1) Determine the net market value of the property at the time of transfer less any consideration received. The result is the net value of the transferred property.
- 2) Subtract the unused portion of the property reserve limit that was in effect at the time of the transfer. The result is the excess net value of the transferred property and is used to determine the period of ineligibility.
- 3) The period of ineligibility is determined by dividing the excess net value of the transferred property by the CMS Hardship MNL for the CFBU. The result is the number of ineligible months. Use the CMS Hardship MNL in effect during each individual month since the date of the transfer. Income received by the CFBU after the transfer does not effect this computation.
- 4) Deducting verified actual medical expenses, the cost of out-of-home care that exceed the CMS Hardship MNL, and cost of major home repairs needed to put the home into a livable condition may reduce the period of ineligibility. When consecutive transfers without adequate consideration are made, individual actual costs items can only be used one time to reduce property.

5) Transfer of Property with Retention of Life Estate

Property transferred by the applicant with retention of a life estate is treated like any other transfer to determine whether the transfer causes ineligibility (MPG Article 9, Section 9).

6) Property used as to Purchase a Principal Residence

Applicants who do not own a principal residence can use the proceeds of real property to buy a principal residence. Applicants may also sell their current principal residence to purchase a new principal residence. In these situations, the proceeds from the sale of the real property are exempt with the following conditions.

- a) The applicant must intend to use the proceeds to purchase a principal residence, and
- b) The proceeds may also be used to pay for moving costs, necessary furnishings, and repairs or alterations to the new principal residence, and
- c) The proceeds are exempt for a period of up to six months from the date of receipt. If a part of the proceeds is used for some other purpose, the remainder is still exempt as long as the remainder is being kept to apply to the purchase of a principal residence.

MPG Letter #673 (3/09)

**F.
Pension
Funds**

CMS does not follow MPG Article 9, Section 6, Item 5 B1). For CMS, pension funds held in the name of the applicant's spouse, community spouse, parent or parent's spouse **are not** automatically exempt if that person is not eligible to or does not choose to receive Medi-Cal or CMS. Item 5 B2) applies to Long Term Care. CMS does follow items 5 B3) and B4).

A.5.4

Share of Cost (SOC) For CMS Hardship Beneficiaries

A. Share of Cost Information

Beneficiaries receiving CMS benefits under the CMS Hardship eligibility category may be required to pay a portion of their medical and pharmacy expenses for the CMS covered services received. Share of Cost (SOC) is the amount that the CMS beneficiary must pay or is obligated to pay each month toward the cost of covered health care services. In any month CMS services are received, the beneficiary will be billed by the County for share of cost or the amount of CMS services, whichever is less. Beneficiaries will not be billed for any months in which they did not receive CMS services.

A.5.5

Liens

A. Policy

The Welfare & Institutions Code (W&IC) 17109 and Article V of the San Diego County Administrative Code, Section 92 authorizes the County to assert liens for any and all claims paid on behalf of a CMS or CMS Hardship beneficiary.

The County Clerk has deputized 35 Human Service Specialist (HSS) as Deputy County Clerks for the limited purpose of witnessing CMS applicant/recipient lien signatures. If no deputized worker is available at the site, the applicant can come back to the office when one is available, go to another CMS site or get the form notarized at their own expense. The Health Care Access (HCA) Program Specialist will maintain a log for all additions, deletions, and updates. The updates are to be recorded on the CMS/GR Transmittal to Add/Delete Deputized Workers (CMS-89) form. This form is to be forwarded to the County Clerk's office as personnel changes occur. The HCA Program Specialist will also conduct annual reconciliations with County Clerk's office to ensure the County Clerk has an accurate listing of HHSA deputized staff.

Effective 12/1/07 all CMS and CMS Hardship applicants are required to execute a lien naming the County of San Diego as grantee to secure any and all real property of the applicant as security for repayment of the cost of claims paid by CMS on the beneficiary's behalf. Liens are not initiated until the beneficiary is no longer active on CMS and CMS has paid claims in total of \$5,000 or more on the beneficiary's behalf.

Liens will also be taken on property outside San Diego County. A note with an explanation of the location of the property will be sent to Revenue & Recovery (R&R) along with the lien form(s). The Grant of Lien form (CMS-122) must be signed and witnessed at every application and reapplication. Staff may waive the lien requirement for recertification after they verify the Grant of Lien form (CMS-122) obtained during the application/reapplication process was signed and witnessed by either a Deputy County Clerk or a Notary Public. If the lien form on file was not witnessed by either a Deputy County Clerk or a Notary Public, the worker shall obtain new lien forms.

B.

Note: A Certificate of Acknowledgement is acceptable in lieu of Notary

**CMS Lien
Form
Information**

Public signature on the CMS-122, if the certificate is signed, dated and stamped by a Notary Public and contains the CMS Grant of Lien form title.

Each applicant will complete a CMS Lien Information form (CMS-123). Failure of the applicant to cooperate will result in denial of aid. The original CMS-123 is scanned into the case and given to the applicant/beneficiary as their record. This form is not sent to HCPA.

The CMS-123 form has been developed to explain the repayment terms of the CMS Program. This form must be carefully explained to the applicant prior to his/her signing and acknowledging the repayment terms. The worker must also narrate in the case an explanation was given.

Completion of these forms are not required as part of the recertification process as long as the CMS-122 obtained during the application/reapplication process was signed and witnessed by either a Deputy County Clerk or a Notary Public. If the lien forms on file were not witnessed by either a Deputy County Clerk or a Notary Public, the worker shall obtain new lien forms.

The CMS Lien Information form (CMS-123) and the CMS Lien Acknowledge Statement (CMS-123A) may be included on the Image Verification Checklist (CMS-107) for beneficiaries/recertifications and therefore not signed or scanned into the CMS IT System.

NOTE: The CMS Lien Information form (CMS-123) and the CMS Lien Acknowledge Statement (CMS-123A) must be signed and scanned into the CMS IT system for all new applicants and first time beneficiaries to the CMS IT System.

**C.
Completion of
the Grant of
Lien**

1. Each CMS applicant must sign a Grant of Lien form (CMS-122) or aid will be denied. A married couple is only required to sign one lien form, but both spouses must sign in front of either a Deputy County Clerk or Notary Public so that the form can be properly witnessed.
 - a) If the applicant states he/she is divorced, legally separated or their spouse is deceased, legal documentation is required.
 - b) In circumstances where the applicant cannot obtain the verification, a sworn statement may be signed under penalty of perjury. The sworn statement must state the circumstances surrounding why verification cannot be obtained.
 - 1) If documentation can be obtained from another source such as a county or state office, then the sworn statement will not be

acceptable.

- 2) If documentation cannot be obtained from another source such as a state or county office; for example, immigrant applicant's spouse died in their home country before applicant immigrated to the US, then it is possible that the sworn statement is acceptable.
2. The worker must submit the sworn statement to Health Coverage Access (HCA) Manager for review and approval. In the HCA Manager's absence, the sworn statements are to be submitted to the HCA Program Specialist for review and approval. The case will remain in pending status until a response is received.
3. If the applicant claims he/she is a victim of Domestic Violence and provides a restraining order against their spouse (expired restraining orders are acceptable), the spouse's signature is not required. If the applicant never obtained a restraining order, but provides a police report (regardless of how old the police report is) regarding the domestic violence, the spouse's signature is not required.

Exception to the lien requirement: If an applicant/beneficiary is confined to the hospital for tuberculosis (TB), they may not have to sign the Lien. If the applicant/beneficiary is confined to the hospital for TB and also receiving services not related to TB, they may not have to sign the Lien. If the applicant/beneficiary is in the hospital for other reason, but is not confined to the hospital for TB, the fact that they have TB does not exempt them from signing the Lien.

4. Give the applicant the CMS Grant of Lien (CMS-122) and the CMS Lien Information (CMS-123). Instruct the applicant to complete the forms without signing them.
5. Inform the applicant that both forms must be signed in front of a Deputy County Clerk, or they can take the forms to a Notary Public at their own expense. The Deputy County Clerk or Notary Public will verify the identity of the signer using proper identification before witnessing their signature. This is to acknowledge that the correct person has signed the forms.
6. If the applicant chooses to have the Deputy County Clerk witness the signature, the Deputy County Clerk will sign the CMS Grant Lien (CMS-122) in the appropriate section, and line through the words "Notary Public".
7. After the signatures are witnessed on the CMS Grant of Lien (CMS-122), the worker scans both forms into the CMS IT system as verification of the applicants/beneficiary's acknowledgement that

they received, reviewed, and understand the forms.

8. The original Grant of Lien form (CMS-122) is sent to central files (MS 0557A) where it will be held until the case closes and total cumulative claims are identified to be \$5,000 or more. One copy is scanned in the case file and a copy is given to the client.
9. Forms will be available in Spanish to give to applicants for information; however, all lien forms must be signed in English. The Spanish forms will be given to applicants along with the Lien Cover Sheet (CMS-123A) for the applicant to acknowledge receipt of Lien forms in Spanish. The Spanish forms do not need to be signed.
10. Only the English Grant of Lien form (CMS-122) needs to have the signatures witnessed. After the signatures are witnessed on the CMS Grant of Lien form (CMS-122), the worker will scan the signed CMS Grant of Lien, the CMS Lien Information (CMS-123) and the CMS Lien Cover Sheet (CMS-123A) into the CMS IT System. This is verification that the applicant/beneficiary acknowledges they have received the forms in Spanish and they have reviewed and understand the forms before signing them in English. A copy of the English forms and a copy of the Spanish forms are given to the applicant for their records
11. The Grant of Lien form (CMS-122) **must** be completed as part of each application or reapplication process, whether or not there is an active lien. A copy is kept in the case record. Staff may waive the lien requirement for recertification after they verify the Grant of Lien form (CMS-122) obtained during the application/reapplication process was signed and witnessed by either a Deputy County Clerk or a Notary Public. If the lien form on file was not witnessed by either a Deputy County Clerk or a Notary Public, the worker shall obtain new lien forms.

MPG Letter #671 (03/09)

**D.
Applicant
Unable to
Complete the
Lien**

In some situations, an applicant will be unable, because of a physical or mental difficulty, to sign his/her own signature on the lien form. If this occurs, his/her spouse or person with his/her power of attorney may sign for him/her. If there is no spouse or person with power of attorney available to sign the lien forms, the CMS case is denied.

A.5.6

Reimbursement Agreement

A. Policy

Welfare & Institutions Code (W&IC) Section 17400-17410 and San Diego County Administrative Code, Section 238 authorizes the County to set up repayment account for all claims paid on behalf of a CMS or CMS Hardship beneficiary. HHSA will refer CMS cases to the Office of Revenue and Recovery to pursue appropriate collection activities and proceedings to recover CMS cost. The CMS Informational Notice (CMS-109 which gives individuals information of the County's legal rights and limitations on repayment must be given to all applicants/beneficiaries who receive the Reimbursement Agreement (CMS-106).

A.5.7

Question and Answers

**A.
CMS
Questions
and Answers**

A Question and Answer (Q&A) document has been created to assist staff and update applicants/beneficiaries on the modifications to the CMS program (See Appendix 5-D). The Q&A document includes questions and answers for Share of Cost, Reimbursement Agreement and Liens. This Q&A document (CMS-112) **must** be given to every individual who applies for CMS.

APPENDIX 5A

CMS Grant of Lien and Completion Instructions

**CMS Grant
of Lien
(CMS-122)**

<p>PLEASE COMPLETE THIS INFORMATION.</p> <p>RECORDING REQUESTED BY:</p> <p>County of San Diego Office of Revenue Recovery 625 Broadway San Diego, CA 92101</p> <p>AND WHEN RECORDED MAIL TO:</p> <p>D-60</p>	<p>THIS SPACE FOR RECORDER'S USE ONLY</p>
--	---

**COUNTY MEDICAL SERVICES (CMS) GRANT OF LIEN
COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY**

CASE NAME (1) _____ (Last name, First) CASE NO. (2) _____
AKA (3) _____

SPOUSE'S NAME (4) _____ AKA (3) _____

MARITAL STATUS (5): ☐ Never Married ☐ Divorced ☐ Widowed
☐ Married, But Separated ☐ Married, Not Separated

In accordance with provisions of law of the State of California, the undersigned hereby grants to the County of San Diego a lien upon any real property in which the undersigned has or holds any right, title or interest, and all other real property in which the undersigned may acquire any right, title or interest in the future, situated in the State of California, or elsewhere, for the amount of all sums of money and the reasonable value of any other property or services heretofore and hereinafter advanced by the County of San Diego for services under the County Medical Services Program from the effective date of your application and all continuous periods of eligibility to: [check applicable box(es)]: (6)

☐ The undersigned or to the spouse

☐ Other person(s), as follows: (Give name and relationship) _____

The lien shall not be enforceable against your home (1) during your lifetime or that of your spouse, or (2) during the minority of your children if they reside in the home, or (3) during the lifetime of any dependent adult child who resides in the home and who is incapable of self-support because of mental or physical disability. If you desire to sell your home against which a lien has been imposed the County shall release its lien against the original home and transfer it to the new home, provided that it finds that its security will not be impaired. If you want to borrow money for the purpose of making improvements to your home, using your home for security, the County shall subordinate its lien to the mortgage or other security interest given for the loan, if the County finds that its security will not be impaired.

Any lien taken by the County for care shall be released immediately when the amount owing the County for that care is paid.

This agreement shall be binding upon the undersigned, his/her successors, heirs and assigns.

I hereby authorize the grantee to append to this instrument a description of any real property located in the State of California or elsewhere of which I am the assessed owner.

Signed (7) _____ Signed (10) _____
 AKA (8) _____ AKA (11) _____
 Address (9) _____ Address (12) _____

 City State Zip Code City State Zip Code

PROPERTY DESCRIPTION: (13)

STATE OF CALIFORNIA)
) SS
 COUNTY OF SAN DIEGO)

On (Date 14) _____, before me, (15) _____, County Clerk/Notary Public, personally appeared (Client name 16) _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: (17) _____
 County Clerk/Notary Public

This is to certify that any interest in real property conveyed by the foregoing Grant of Lien to the County of San Diego, a political corporation and/or governmental agency, is hereby accepted by the undersigned officer or agent on behalf of the County Clerk pursuant to authority conferred by resolution of the Board of Supervisors adopted on February 24, 1970, and the grantee consents to recordation thereby of its duly authorized officer.

By: (18) _____ Dated: (18) _____
 County Clerk/Notary Public

MPG Letter 663 (01/08)

Instructions

Item	Action
1	Case Name - Print client's full name: Last name, first
2	Case Number - Print the CMS member number.
3	AKA - Print all other names the client and or spouse
4	Spouse Information - If applicable (Divorced or
5	Marital Status - Check appropriate box and confirm

	whether AKA information is required or not.
6	Lien Upon Property Information - Check appropriate boxes; Check the "Other Person(s)" box if there is another person on the title of the home who is not the spouse (mother, aunt etc.) and write in name and relationship.
7	Signed - CLIENT MUST SIGN FULL NAME , including middle name. Compare signature with identification documents.
8	AKA - Client signs name using aka. CLIENT MUST SIGN AKA ON THE LIEN .
9	Address - Print complete address of where the client lives which may be different from the Real Property owned; if homeless, print "homeless."
10	Spouse Signature - If applicable
11	AKA - Spouse signs name using aka. SPOUSE MUST SIGN AKA ON THE LIEN .
12	Address - Print complete address of where the spouse lives; if homeless, print "homeless."
13	Property Description (Single Family Residence, Duplex, Condominium, etc.) - List any property that the client/spouse owns. Also add property address if different than home address listed on item 9.
14	Date Lien signed.
15	Print Deputized worker or Notary Public name and line through the non-applicable title. (Example: A Deputized worker would line through Notary Public)
16	Print full name and AKAs of the client, and spouse, if applicable. MUST EXACTLY MATCH SIGNATURE .
17	Deputized worker or Notary Public signature (lining through the non-applicable title).
18	Deputized worker or Notary Public signature (lining through the non-applicable title) and date.
The worker of record must review the Grant of Lien form (CMS-122) for completion and correctness before sending it to central files MS 0557A.	

Note: A Certificate of Acknowledgement is acceptable in lieu of Notary Public signature on the CMS-122, if the certificate is signed and dated by a Notary Public and contains the CMS Grant of Lien form title.

APPENDIX 5B

CMS Lien Information

COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY

CMS LIEN INFORMATION

COUNTY MEDICAL SERVICES

Case Name _____

Case No. _____

Worker No. _____

[1] I/We hereby promise to pay to the County of San Diego all sums of money and the reasonable value of any other property for services heretofore and hereinafter advanced by the County of San Diego for medical care for services paid under the County Medical Services Program to me/us, parent[s] or minor or adult child or children or to (specify) _____

[2] Any money or other contribution I/we receive must be reported at once to my/our Human Services Specialist in the Health and Human Services Agency,

[3] In consideration of the foregoing, I/we agree that this obligation shall be due and enforceable, at the option of the County of San Diego:

- a. Upon my/our death[s].
- b. Upon my/our acquisition of any property or any interest therein in excess of the amount permitted to be retained by recipients of relief.

While I am/we are receiving aid or relief or institutional care from the County of San Diego, or the State of California, this obligation shall not be due or payable.

[4] I/We further understand that in the event I am/we are not [a] citizen[s] or Legal Resident that notification of my/our application for aid will be made to the United States Customs Enforcement (ICE) Department of Homeland Security (DHS) in compliance with San Diego County Board of Supervisors policy (adopted 4-18-69).

[5] Note: CMS does not assign Work Projects.

[6] Note: CMS does aid sponsored aliens.

I/We hereby waive forever all statutes of limitation upon any cause or action arising hereunder.

I/We certify that I/we have read and understand the above requirements concerning my/our receipt of County Medical Services.

Signature of Applicant

Date

Signature of Spouse

Date

APPENDIX 5C

CMS Maintenance Need and Property Limit Charts

CMS Maintenance Need Levels (MNL)

CFBU SIZE	CMS 165% FPL (Eff 07/01/08)	CMS HARSHIP 350% FPL (Eff 0701//08)
1	1,431	3,035
2	1,926	4,085
3	2,421	5,135
4	2,916	6,185
5	3,411	7,235
6	3,906	8,285
7	4,401	9,335
8	4,896	10,385
9	5,391	11,435
10	5,886	12,485
Add for additional members	495	1,050

CMS Property Limits

PROPERTY LIMITS	
CFBU SIZE	LIMIT
1	\$ 2,000
2	3,000
3	3,150
4	3,300
5	3,450
6	3,600
7	3,750
8	3,900
9	4,050
10	4,200

APPENDIX 5D

Questions and Answers for Share of Cost/Reimbursement Agreement/Liens



COUNTY MEDICAL SERVICES

QUESTION AND ANSWERS SHARE OF COST/REIMBURSEMENT AGREEMENT/LIENS

All applicants who apply for County Medical Services (“CMS”) after April 10, 2008, are required to sign a Lien. As of July 1, 2008, all applicants for CMS Hardship are also required to sign a Reimbursement Agreement. Applicants who get CMS without the Hardship Waiver do not need to sign the Reimbursement Agreement. The Lien and Reimbursement requirements are about when and how you may have to pay back the County after you stop receiving CMS.

Some CMS Hardship applicants will also be sent bills for a Share of Cost for any month they used CMS services. Share of Cost is a regular charge you pay each month you receive CMS services.

This document answers common questions about these three different requirements.

If you have any other questions, ask your CMS worker. You may also ask for help with your CMS application at the Consumer Center for Health Education and Advocacy at 1-877-734-3258.

SHARE OF COST (SOC)

(applies only to those who have applied for the CMS hardship)

Q1: What is Share of Cost (“SOC”)?

A: Share of Cost is the amount that you must pay or be obligated to pay toward the cost of CMS covered health care services (including CMS approved prescriptions) each month you receive CMS services. This is different from the Reimbursement Agreement and Lien described below, which might not be collected until some time in the future.

Q2: How much will my SOC bill be?

A: Your worker will determine the amount of your monthly SOC, and you will be notified of this amount and how it was calculated.

Q3: Am I required to pay my share of cost every month?

SHARE OF COST (SOC)

(applies only to those who have applied for the CMS hardship)

A: Only if you receive CMS services every month. You will not be responsible for paying your share of cost in months you do not receive CMS services. Please do not send payments to CMS until you receive a statement.

Q4: How do I pay my SOC?

A: You will be billed the amount of your SOC or the amount of CMS services, whichever is less. You will not be billed for any months in which you do not receive CMS services. The billing statement will include the address where to send the monthly payment. Do not send payments to CMS until you receive a billing statement. Do not send cash. The County will not accept cash payments.

Q5: When will I be required to make payments?

A: When you receive a bill from the County it is due. If you have questions regarding share of cost billing and collection, you can call our share of cost billing representative at 1-877-702-6508.

Q6: I just saw my physician, when will I receive a statement?

A: Once all claims are received from your health care provider.

- If your share of cost has been satisfied for the month, a monthly statement will be sent.
- If your share of cost is not satisfied for the month, a quarterly statement will be sent.

Q7: Can I pay the SOC with credit cards?

A: Yes, the County accepts Master Card, Visa, and Discover. You may also make payments with personal checks, cashiers checks or money orders. The County does not accept cash payments.

Q8: Why did I receive a statement?

A: Based on your recent CMS and CMS Hardship applications, you were approved CMS with a share of cost. You received a statement because you received CMS services and are responsible for paying your share of cost.

Q9: Is interest added on to what I owe?

A: No.

REIMBURSEMENT AGREEMENT

(applies only to those who have applied for the CMS hardship)

Q1: What is the purpose of the Reimbursement Agreement?

A: It allows the County to seek reimbursement from you for:

- Your monthly share of cost obligation for those months which you receive CMS services, and/or
- Any health care related costs CMS paid on your behalf.

Q2: When can I be required to make payments to the County?

REIMBURSEMENT AGREEMENT

(applies only to those who have applied for the CMS hardship)

A: While you are eligible for CMS you will receive a bill from the County for your SOC for each month you receive CMS services. You are obligated to pay the SOC when you receive a bill.
After you are no longer eligible for CMS, you will receive a bill from the County for the balance due on your account for all amounts paid by CMS on your behalf stating that payments are due.

Q3: What is the difference between the Lien and the Reimbursement Agreement?

A:

- Lien – The Lien attaches to real property to secure the amounts owed to the County for payments made by CMS on your behalf.
- Reimbursement Agreement – Once you are no longer eligible for CMS, the County may bill you for the balance due on your account and seek reimbursement from your assets or surplus income.

Q4: If I sign the Reimbursement Agreement do I still have to sign the Lien?

A: If you are applying for a CMS Hardship, then yes, you must sign both documents.

Q5: Can you take my inheritance and/or lottery winnings with the Reimbursement Agreement?

A: Yes, if you have surplus money from these sources after meeting your support needs and those of your family. If part of what you inherit is a home that you, your spouse, your minor children, or any dependent child of any age who is incapable of self-support because of a mental or physical disability lives in, the County cannot foreclose on that home.

Q6: When do I have to reimburse the County?

A: When you stop getting CMS or when you die, the County can collect reimbursement from those assets you obtained after you applied for CMS, if there is surplus after meeting the support needs of yourself and your family.

Q7: How will signing the Reimbursement Agreement with the County affect my credit?

A: Signing the Reimbursement Agreement will not affect your credit. It is not a recordable document.

Q8: Will my wages be garnished?

A: No, unless the County obtains a judgment and you fail to pay the judgment. Even then, the County may only garnish your wages if you have surplus money after meeting the support needs of yourself and your family.

Q9: How long does the Reimbursement Agreement last?

A: Until you have fully repaid the amount you owe the County.

Q10: Does the Reimbursement Agreement include my children's assets (property, lottery winnings...)?

A: No.

Q11: Can my children be held responsible for repaying the County?

REIMBURSEMENT AGREEMENT

(applies only to those who have applied for the CMS hardship)

A: No.

Q12: Do I have to repay the County just because I get a new job?

A: No.

Q13: Is interest added on to what I owe?

A: No, unless the County obtains a judgment.

Q14: Can I pay what I owe the County with credit cards?

A: Yes, the County accepts Master Card, Visa, and Discover. You may also make payments with personal checks, cashiers checks or money orders. The County does not accept cash payments.

LIENS

Q1: Do I have to sign a lien agreement?

A: Yes. Everyone who applies for CMS starting April 11, 2008, is required to sign a Lien. If you applied for CMS before April 11, 2008, you do not have to sign a Lien. If you are confined to the hospital for tuberculosis ("TB"), you may not have to sign the Lien. If you are confined to the hospital for TB and you are also receiving services not related to TB, you may not have to sign the Lien. If you are in the hospital for other reasons, but are not confined to the hospital for TB, the fact that you have TB does not exempt you from signing the lien.

Q2: What is the purpose of the Lien?

A: It attaches to real property to secure the amounts you owe the County for amounts paid by CMS on your behalf. It allows the County to seek reimbursement for such amounts from your real property.

Q3: If I sign the Lien, do I have to sell my home?

A: No.

Q4: If I sign the Lien, will I be forced to move out of my home?

A: No.

Q5: I am a renter and own no real property. Do I have to sign the Lien?

A: Yes. The Lien will attach to real property you may own in the future.

Q6: Can you take my inheritance and/or lottery winnings with the Lien?

A: No, the Lien is effective only against your real property.

Q7: Can the County foreclose on the Lien on my home while my family lives in our home?

A: No. The County cannot foreclose on your home during your lifetime or your spouse's lifetime. The County also cannot foreclose on your home while your minor children live in your home or during the lifetime of any dependent child of any age who lives in the home who is incapable of self-support because of a mental or physical disability.

LIENS

Q8: Can I sell my home and buy another one?

A: Yes, you can sell your home and buy another one as long as the County's Lien is transferred to the new home. The County will release the Lien on the original home and transfer it to the new home, provided that it finds its security will not be impaired.

Q9: Can I refinance my home?

A: Yes, as long as the County's Lien is not compromised, you can refinance. You can also use your home for security to borrow money for the purpose of making improvements on your home as long as the County finds that its security will not be impaired.

Q10: How will signing the Lien affect my credit?

A: The recording of a Lien is a matter of public record, and will appear on credit reports the same way a mortgage or other loan is listed.

Q11: Will my wages be garnished?

A: No.

Q12: How long does the Lien last?

A: Until you have repaid the amount owed to the County.

Q13: If I sign the Lien, does it prevent me from buying real property in the future?

A: No, but the Lien would attach to any real property you buy in the future.

Q14: Does the Lien include my children's real property?

A: No.

Q15: What if I own my home with someone else?

A: The lien will not attach to the other person's interest in the home.

Q16: When will I be required to make payments on the Lien?

A: After you are no longer eligible for CMS you may be required to make payments to the County. Such payments would reduce the amount secured by the Lien. The County cannot require you to use equity in your home to pay the Lien. If you sell your home and do not buy a new one that you, your spouse, your minor children, or any dependent child of any age who is incapable of self-support because of a mental or physical disability lives in, or if you refinance your home the lender or the County may require you to pay all or a portion of the amounts owed the County. Also, if real property is purchased after the Lien is signed, the Lien will have priority (based on recording date) over a Deed of Trust issued by the lender. A lender may require that the Lien be satisfied before making the loan.

Q17: Do I have to repay CMS if I get a new job?

A: No.

Q18: Is interest added on to what I owe?

A: No.

Q19: For married couples, do both spouses have to sign the Lien?

LIENS

A: Yes, the applicant and spouse both have to sign the lien in front of either a Deputy County Clerk or Notary Public.

Q20: For married couples who are legally separated or divorced, do both spouses have to sign the Lien?

A: No. Only the applicant needs to sign the Lien, but **legal** documentation regarding the legal separation or divorce must be provided. If you are unable to provide legal documentation, notify your worker. Your worker will advise you of alternate documentation that CMS may accept.

Q21: If an unmarried couple owns a home together, do both owners have to sign the Lien or just the applicant?

A: Just the applicant.

Q22: If my spouse is deceased, is documentation required?

A: Yes, documentation is required. If you are unable to provide legal documentation, notify your worker. Your worker will advise you of alternate documentation that CMS may accept.

Q23: Can I pay the lien with credit cards?

A: No, payments to clear a Lien must be made by certified funds.

Q24: If a married couple applies for CMS on separate occasions, do the lien forms need to be signed again by both applicant and spouse.

A: Yes.